

Federal Communications Commission

DA 01-1914

FCC MAIL ROOM

Before the
Federal Communications Commission
Washington, D.C. 20554

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In the Matter of)	CC Docket No. 01-73/
)	
Joint Applications of Telephone and Data)	ITC-T/C-20010307-00128
Systems, Inc. and Chorus Communications,)	ITC-T/C-20010307-00129
Ltd. for Authority to Transfer Control of)	
Commission Licenses and Authorizations)	ULS File Nos.
Pursuant to Sections 214 and 310(d) of the)	0000352422
Communications Act and Parts 22, 63 and 90)	0000352426, <i>et al.</i>
of the Commission's Rules)	

MEMORANDUM OPINION AND ORDER

Adopted: August 10, 2001

Released: August 10, 2001

By the Chief, Common Carrier Bureau; Chief, Wireless Telecommunications Bureau:

I. INTRODUCTION

1. In this Order, we approve the transfer of control applications filed on February 8, 2001, and March 7, 2001, by Telephone and Data Systems, Inc. (TDS) and Chorus Communications, Ltd. (Chorus) (collectively, the Applicants), pursuant to sections 214 and 310(d) of the Communications Act of 1934, as amended (the Act).¹ The applications were placed on public notice on March 20, 2001,² and no comments were received. The Applicants filed additional information in support of their applications in letters dated May 16, 2001, June 6, 2001, and August 3, 2001.³ Based on the record, we conclude that the public interest will be served by approval of the transfer of control applications, subject to the condition that Chorus

¹ See Chorus Communications, Ltd. and Telephone and Data Systems, Inc., Application to Transfer Domestic Blanket Section 214 Authority Held by Chorus and its Subsidiaries to Telephone and Data Systems, Inc. (filed Mar. 7, 2001) (*Domestic 214 Petition*); Applications for Assignments of Authorization and Transfers of Control to Telephone and Data Systems, Inc., ULS File Nos. 0000352422, 0000352426, 0000334628, and 0000352428 (filed Feb. 8, 2001).

² *Commission Seeks Comment on Application for Consent to Transfer Control Filed by Chorus Communications, Ltd. and Telephone and Data Systems, Inc.*, Public Notice, DA 01-715 (rel. Mar. 20, 2001).

³ See Letter from Arthur W. Bresnahan and Alan Y. Naftalin to Magalie Roman Salas, Secretary, Federal Communications Commission, CCB Docket No. 01-73 (filed May 17, 2001) (*May 17 Ex Parte Letter*); Letter from Arthur W. Bresnahan and Alan Y. Naftalin to Magalie Roman Salas, Secretary, Federal Communications Commission, CCB Docket No. 01-73 (filed June 6, 2001) (*June 6 Ex Parte Letter*); Letter from Warren G. Lavey and Peter Connolly to Aaron Goldberger, Common Carrier Bureau, Federal Communications Commission, CCB Docket No. 01-73 (filed Aug. 3, 2001).

divest to an unrelated third party before consummation certain wireless licenses that TDS is not permitted to hold or control under the Commission's rules.⁴

II. BACKGROUND

2. Chorus provides local exchange services in Wisconsin and Minnesota through both its incumbent local exchange carrier (LEC) and competitive LEC subsidiaries.⁵ Chorus also provides long distance services to 19,329 customers through two subsidiaries.⁶ In addition, Chorus holds, directly and indirectly, several radio licenses. The transferee, TDS, is a holding company, which through its wholly-owned subsidiary, TDS Telecommunications Corporation (TDS Telecom) and incumbent LEC operating subsidiaries, provides telecommunications service to approximately 731,000 access lines in 28 states.⁷ The Applicants propose to transfer control of certain of the wireless licenses and the domestic and international section 214 authorizations held by Chorus and its subsidiaries to TDS by merging Singer Acquisition Corporation, a wholly-owned subsidiary of TDS, with and into Chorus.⁸ The merger would make Chorus a wholly-owned subsidiary of TDS, and Chorus's subsidiaries would become wholly-owned indirect subsidiaries of TDS. Chorus proposes to divest its 75-percent interest in PCS Wisconsin and 18-percent interest in Madison SMSA before consummating the merger with TDS to comply with the Commission's rules.

⁴ On January 11, 2001, the U.S. Department of Justice and Federal Trade Commission granted early termination of their examination of the merger following their inquiry under the Hart-Scott-Rodino Antitrust Improvements Act of 1976. *Grant for Early Termination of the Waiting Period Under the Premerger Notification Rules*, 66 Fed. Reg. 9,849, 9,850 (Feb. 12, 2001). The Minnesota Public Utilities Commission also approved the merger by order dated March 23, 2001.

⁵ In Wisconsin, Mid-Plains, Inc. (Mid-Plains), a wholly-owned subsidiary of Chorus, serves 36,369 incumbent LEC lines in the Madison, Wisconsin area. Two other Chorus subsidiaries, Farmers Telephone Company (Farmers) and Dickeyville Telephone Corporation (Dickeyville) serve 7,273 and 1,463 incumbent LEC access lines, respectively, in other areas of Wisconsin. See *Domestic 214 Petition* at 4. Mid-Plains holds a 75-percent interest in PCS Wisconsin, LLC, which provides personal communications services (PCS) to the Madison area. Mid-Plains also holds an 18-percent interest in Madison SMSA Limited Partnership (Madison SMSA), which provides cellular service to the Madison area.

⁶ See *Domestic 214 Petition* at 5.

⁷ *Id.* In Wisconsin, TDS serves approximately 107,000 access lines through 16 incumbent LECs. *Id.*; *May 17 Ex Parte Letter* at 2. In Minnesota, TDS Telecom serves approximately 34,140 access lines through its incumbent LEC subsidiaries, and 49,900 access lines through a competitive LEC, US Link. *Domestic 214 Petition* at 5. TDS serves 78,784 access lines in Wisconsin through its competitive LEC subsidiary. *May 17 Ex Parte Letter* at 2. TDS also controls Madison Cellular Telephone Company and United States Cellular Corporation (USCC), which hold cellular licenses covering roughly the southern half of Wisconsin, among other locations throughout the country. *Id.* at Exhs. I & J.

⁸ See *Domestic 214 Petition* at 1. The applications for transfer of Chorus's international section 214 authorizations have been granted on a streamlined basis under section 63.12 of the Commission's rules, with consummation of the proposed transaction conditioned on grant of the wireless and domestic section 214 applications. See *International Authorizations Granted*, Report No. TEL-00377, DA 01-849 (rel. Apr. 5, 2001).

3. Pursuant to sections 214(a) and 310(d) of the Act, we must determine whether the Applicants have demonstrated that the proposed transfer of control of Chorus's licenses and authorizations will serve the public interest, convenience, and necessity.⁹ In discharging these statutory responsibilities, we have weighed the potential public interest harms of the proposed transaction against the potential public interest benefits to ensure that, on balance, the transfers of control serve the public interest, convenience, and necessity.¹⁰

III. DISCUSSION

4. After reviewing the record, we determine that the proposed transfer will not likely result in harm to competition in any relevant U.S. market and will likely yield public interest benefits. No qualifications or competitive issues have been raised concerning TDS's acquisition of Chorus's other wireless licenses, and we find no independent reason to believe that the proposed transaction raises those issues in light of the Applicants' agreement that Chorus must divest its interests in PCS Wisconsin and Madison SMSA before consummating its merger with TDS. To that end, we condition grant of the applications on Chorus divesting these interests before consummation of its transaction with TDS to ensure that the transaction will not result in a violation of the Commission's rules.

A. Divestiture of Chorus's Interests in PCS Wisconsin and Madison SMSA

5. Chorus holds an indirect, controlling 75-percent interest in PCS Wisconsin, LLC, the Madison PCS F block licensee. TDS is ineligible to hold this license because TDS does not qualify as an entrepreneur,¹¹ and Chorus has committed to divest the F block PCS license. To accomplish the divestiture, Chorus has filed alternate applications requesting consent to assign this license to either Metcalf Partners L.P. or the current PCS Wisconsin minority interest holder, Mt. Horeb Telephone Company.¹²

6. Chorus also holds an 18-percent interest in Madison SMSA Limited Partnership, a Madison MSA cellular licensee. Under the Commission's rules, TDS currently is precluded from acquiring Chorus' interest in the Madison cellular carrier because TDS controls the other cellular carrier in the Madison market. The Commission's rules preclude an entity that controls a cellular licensee from holding more than a five-percent interest in the other cellular licensee in

⁹ 47 U.S.C. §§ 214(a), 310(d).

¹⁰ *Voicestream Wireless Corporation, Powertel, Inc. and Deutsche Telekom AG for Consent to Transfer Control of Licenses and Authorizations Pursuant to Sections 214 and 310(d) of the Communications Act and Petition for Declaratory Ruling Pursuant to Section 310(d) of the Communications Act*, Memorandum Opinion and Order, FCC 01-142, ¶ 17 (rel. Apr. 27, 2001).

¹¹ See 47 C.F.R. §§ 24.709, 24.839.

¹² See ULS File Nos. 0000484077 (requesting consent to assign to Mt. Horeb Telephone Co.), 0000398367 (requesting consent to assign to Metcalf Partners L.P.).

that market.¹³ Therefore, to comply with the Commission's rules, Chorus has committed to divest its interest in Madison SMSA Limited Partnership prior to consummation of the instant transaction,¹⁴ and requests approval to divest this interest to a divestiture trust pending sale to a third party. While the sale of Chorus' 18-percent interest in Madison SMSA Limited Partnership does not require Commission approval because it does not constitute a transfer of control of the license(s) involved, the Commission's rules place certain limitations on the establishment and administration of divestiture trusts.¹⁵

7. We grant Chorus' request that its interest in Madison SMSA be transferred to a divestiture trust. We have reviewed the proposed Trust Agreement and find that it complies with the Commission's requirements for divestiture trusts.¹⁶ We are satisfied that the Trustee will be independent, that he will be able to dispose of the properties as he sees fit, that communication between the Trustee and the Applicants will be limited to communications initiated by the Trustee seeking information needed to divest the interest, and that the trust will be of limited duration. In addition, the Trustee will report to the Commission every 60 days on progress towards ultimate divestiture. Grant of the applications referenced herein is conditioned, however, on further approval of material revisions to the Trust Agreement, and the failure to adhere to these critical elements of the Trust Agreement could subject the Applicants to an enforcement action by the Commission. We see no reason here, as we have in previous cases, to place a specific limit on the period of time for consummating the transfer of Chorus' interest in Madison SMSA to the divestiture trust because the interest must be divested to the trust before the merger with TDS may be consummated.¹⁷

B. Analysis of Public Interest Effects in the Local Exchange and Exchange Access Markets

1. Potential Public Interest Harms

8. The Commission has previously found that, absent conditions, a proposed merger of incumbent LECs could harm consumers by precluding the potential for one party to a transaction to enter the other's local exchange and exchange access markets as a competitor.¹⁸

¹³ See 47 C.F.R. § 22.942(a).

¹⁴ See Letter from Arthur W. Bresnahan and Peter Connolly to Magalie Roman Salas, Secretary, Federal Communications Commission, CCB Docket No. 01-73 at 1 (filed June 6, 2001).

¹⁵ See, e.g., *In the Matter of 1998 Biennial Regulatory Review of Spectrum Aggregation Limits for Wireless Telecommunications Carriers, et al.*, WT Dockets 98-205, 96-59, GN Docket No. 93-252, Memorandum Opinion and Order, 15 FCC Rcd 9,219, 9,269, ¶¶ 116-17 (1999).

¹⁶ See Attachment.

¹⁷ See, e.g., *In re Applications of GTE Corporation, Vodafone AirTouch plc, and Bell Atlantic Corporation*, Order, 15 FCC Rcd 11,608, ¶¶ 6-8 (2000).

¹⁸ *In re Applications of NYNEX Corporation Transferor, and Bell Atlantic Corporation Transferee, for Consent to Transfer Control of NYNEX Corporation and Its Subsidiaries*, NSD-L-96-10, Memorandum Opinion and Order, (continued....)

Specifically, the Commission has found that a proposed merger involving incumbent LECs can raise public interest concerns by eliminating the potential for competitive entry by or actual competition between the merging parties.¹⁹ To determine whether a proposed combination of incumbent LECs would cause a public interest harm, the Commission examines several relevant considerations, including the metropolitan areas involved;²⁰ the mobile telephony holdings of the parties, which could enhance their ability to springboard into adjacent markets;²¹ the announced plans and potential for one company to enter the other's markets;²² and the advantages of adjacent local exchange operations to support competitive entry.²³ The Commission has considered whether this type of analysis is necessary when the transaction pertains to smaller carriers, and found that it would, on a case-by-case basis, determine the competitive effects of such proposed transactions.²⁴

9. In this case, TDS and Chorus are actual competitors for local exchange and exchange access services in the Madison area.²⁵ Specifically, the proposed transaction would eliminate TDS as a competitor in two exchange areas in which Chorus is an incumbent LEC. After carefully reviewing the specific facts of this case, we are persuaded that the loss of TDS as a competitor in the Chorus exchanges is not likely to result in a public interest harm. We reach this conclusion for the following reasons. First, the record indicates that a significant number of actual and potential competitors will remain in the Madison area, and in the Chorus exchanges, even after the proposed transaction is consummated.²⁶ Second, the vast majority of TDS Metrocom's competitive LEC lines in the Middleton and West Towne exchanges serve business customers.²⁷ The Commission has recognized that such business customers, in particular larger businesses, generally face more competitive choices than residential customers, and that business

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12 FCC Rcd 19,985 (1997) (*Bell Atlantic/NYNEX Order*). See also *Application of GTE Corporation, Transferor, and Bell Atlantic Corporation, Transferee, for Consent to Transfer Control of Domestic and International Sections 214 and 310 Authorizations and Application to Transfer Control of a Submarine Cable Landing License*, CC Docket No. 98-184, Memorandum Opinion and Order, 15 FCC Rcd 14,032 (2000) (*Bell Atlantic/GTE Order*); *In re Application of Ameritech Corp., Transferor, and SBC Communications Inc., Transferee, for Consent to Transfer Control of Corporations Holding Commission Licenses and Lines Pursuant to Sections 214 and 310(d) of the Communications Act and Parts 5, 22, 24, 25, 63, 90, 95 and 101 of the Commission's Rules*, CC Docket No. 98-141, Memorandum Opinion and Order, 14 FCC Rcd 14,712 (1999) (*SBC/Ameritech Order*).

¹⁹ See, e.g., *Bell Atlantic/NYNEX Order*, 12 FCC Rcd at 20,012-13, ¶ 44.

²⁰ *SBC/Ameritech Order*, 14 FCC Rcd at 14,746-77, 14,789, ¶¶ 69, 168; *Bell Atlantic/NYNEX Order*, 12 FCC Rcd 20,015-19, ¶¶ 54-57.

²¹ *SBC/Ameritech Order*, 14 FCC Rcd at 14,748, 14,751-54, ¶¶ 73, 81-85.

²² *Bell Atlantic/GTE Order*, 15 FCC Rcd 14088, 14090-92, ¶¶ 100, 105, 108, 110; *SBC/Ameritech Order*, 14 FCC Rcd at 14749-54, ¶¶ 77-86; *Bell Atlantic/NYNEX Order*, 12 FCC Rcd at 19990-91, ¶ 8.

²³ *SBC/Ameritech Order*, 14 FCC Rcd at 14,753-54, ¶ 85; see also *Bell Atlantic/GTE Order*, 14 FCC Rcd 14,764, ¶ 108.

²⁴ *Petition for Forbearance of the Independent Telephone & Telecommunications Alliance*, FCC 99-105, Third Memorandum Opinion and Order, 14 FCC Rcd 10,816, 10,830, ¶ 19 (1999).

customers are more attractive to competitive LECs than residential customers.²⁸ Third, the record indicates that TDS has made a significant investment to expand beyond its incumbent LEC exchanges and provide competitive LEC services in Madison.²⁹ The extent of TDS's competitive LEC activities in Madison provides specific, identifiable evidence that, rather than reducing competition, the transaction will instead increase competition by making TDS a stronger competitor to SBC in the local market in the Madison area. In sum, although the presence of TDS as a competitor in Chorus's exchanges in the Madison area is a serious consideration in this case, we conclude that the Applicants have sufficiently demonstrated through credible record evidence that these other relevant factors mitigate the potential harm to local competition in the Madison area. Moreover, with respect to long distance services, the merged company will provide long distance services to less than one percent of the customers in Wisconsin and thus will not pose a competitive threat to competition in the provision of long distance services.³⁰

10. Furthermore, aside from the Madison area exchanges discussed above, there is no evidence of intent on the part of either party in this transaction to engage in any significant further entry into any of the markets of the other party.³¹ The *Bell Atlantic/NYNEX Order*, the

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²⁵ For purposes of this transaction, we analyze the Wisconsin markets for local exchange and exchange access in which the Applicants provide service. See *In re Applications of WorldCom, Inc. and MCI Communications Corporation for Transfer of Control of MCI Communications Corporation to WorldCom, Inc.*, CC Docket No. 97-211, Memorandum Opinion and Order, 13 FCC Rcd 18,025, 18,120, ¶ 167 (1998) (*MCI/WorldCom Order*) (analyzing those geographic markets for local exchange and exchange access services in which one or both of the merging parties provide service). Of the Chorus exchanges at issue in the proposed transaction, the only ones that raise potential competitive concerns are the Middleton and West Towne exchanges, located in the Madison, Wisconsin area. In these exchange areas, TDS's competitive LEC subsidiary, TDS Metrocom, provides exchange services in competition with Chorus's incumbent LEC subsidiary. *May 17 Ex Parte Letter* at 4-5.

²⁶ SBC-Ameritech, the largest incumbent LEC in Wisconsin, is the incumbent LEC in the City of Madison and some of the surrounding communities. *May 17 Ex Parte Letter* at 2, 4. Verizon and CenturyTel, the second and third largest incumbent LECs in Wisconsin, respectively, and Mt. Horeb Telephone Company also provide incumbent LEC service in the vicinity of Madison. *Id.* In addition, several competitive LECs provide service in the Madison area. For instance, KMC Telecom, McLeod, and ChoiceOne provide competitive LEC service in and around Madison, including the Middleton and West Towne exchanges. *Id.* at 5. Finally, Applicants represent that, Charter Communications, a cable television operator in Madison, has been upgrading its services in the Middleton and West Towne exchanges and has announced plans to provide local telephone service. *Id.* at 5-6.

²⁷ The Applicants state that some of TDS Metrocom's 340 residential lines in the Chorus exchanges serve TDS employees. *May 17 Ex Parte* at 5.

²⁸ See, e.g., *Bell Atlantic/GTE Order*, 14 FCC Rcd at 14,096, ¶ 121.

²⁹ *May 17 Ex Parte Letter* at 4.

³⁰ *MCI/WorldCom Order*, 13 FCC Rcd at 18,047-48, ¶ 36; see also *Domestic 214 Petition* at 5.

³¹ Chorus's non-Madison exchanges, operated by Chorus subsidiaries Farmers Telephone Company and Dickeyville Telephone Corporation, are both small rural exchanges. Farmers serves 7,273 access in four exchanges, and Dickeyville serves 1,463 access lines in one exchange. See *May 17 Ex Parte Letter* at Exh. D. The (continued....)

SBC/Ameritech Order and the *Bell Atlantic/GTE Order* expressed the Commission's concerns where carriers may have had intent to enter one another's markets and, thus, were likely to be competitors if the proposed transaction did not take place.³² Similarly, the advantages that incumbent LECs have to support competitive entry in adjacent exchanges are not present here, since neither the Farmers exchanges nor the Dickeyville exchange is adjacent to a TDS incumbent LEC exchange.³³ Although USCC, a TDS affiliate, provides cellular service in many parts of Wisconsin, including areas served by Farmers and Dickeyville,³⁴ Chorus's customers in these exchanges make up only a small portion of the population of USCC's service areas in Wisconsin and therefore are not likely to have a significant effect on any decision by USCC to provide fixed wireless or other services.³⁵ In addition, TDS uses separate facilities, and billing, branding and operation resources from USCC, thus eliminating some of the competitive entrant advantages that otherwise would flow from TDS's affiliation with USCC.³⁶ In short, we find no reason to conclude that, but for the proposed transaction, TDS is likely to be a significant market participant in the Farmers or Dickeyville exchanges, or that Chorus is likely to be a significant market participant in the TDS exchanges.

2. Potential Public Interest Benefits

11. We determine, based on the record and as discussed above, that the proposed transfer of control is likely to result in public interest benefits through enhanced competition in the market for domestic and foreign telecommunications services by strengthening TDS's ability to compete against larger incumbent LECs and long distance providers.³⁷ The record also indicates that the proposed transaction will result in economic and operational efficiencies.³⁸ Accordingly, we conclude that the proposed transaction, on balance, will benefit the public.

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Commission has previously found that such largely rural and less populated areas are less attractive to new entrants. *Bell Atlantic/GTE Order*, 15 FCC Rcd at 14,095, ¶ 117.

³² *Bell Atlantic/GTE Order*, 15 FCC Rcd at 14,088, 14,090-92, ¶¶ 100, 105, 108, 110; *SBC/Ameritech Order*, 14 FCC Rcd at 14,745, ¶ 66; *Bell Atlantic/NYNEX Order*, 12 FCC Rcd at 19,990-91, ¶ 8.

³³ *May 17 Ex Parte Letter* at 3-4.

³⁴ *Id.* at 6. Currently, Chorus does not provide wireless service in its or TDS's service area. *Id.*

³⁵ *Id.*

³⁶ *Id.*

³⁷ See, e.g., *MCI/WorldCom Order*, 13 FCC Rcd at 18,134-35, ¶ 194.

³⁸ *May 17 Ex Parte Letter* at 7.

IV. CONCLUSION

12. For the forgoing reasons, we conclude that the transaction likely will yield tangible public interest benefits that outweigh any potential public interest harms. Accordingly, we approve the requested transfer of the domestic wireline section 214 authorizations and the wireless licenses associated with these applications, subject to the wireless conditions described below.

V. ORDERING CLAUSES

13. Accordingly, having reviewed the domestic wireline and wireless applications and the record in this matter, IT IS ORDERED, pursuant to sections 4(i) and (j), 214 (a) and (c), and 309 and 310(d) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), 214(a), 214(c), 309, and 310(d), that the application for transfer of control of the domestic section 214 authorizations and the applications for transfer of control of wireless licenses filed by TDS and Chorus in the above captioned proceeding ARE GRANTED.

14. IT IS FURTHER ORDERED, pursuant to sections 4(i) and (j), 309, and 310(d) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i) and (j), 309, and 310(d), and sections 0.331 and 22.942 of the Commission's rules, 47 C.F.R. §§ 0.331 and 22.942, that the grant of these applications is subject to the condition that, prior to consummating the merger transaction described in the applications, Chorus divest enough of its interest in Madison SMSA Limited Partnership to an unrelated third party such that the consummation of the merger transaction will not violate 47 C.F.R. § 22.942.

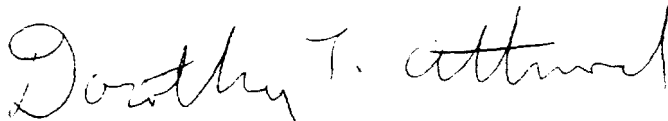
15. IT IS FURTHER ORDERED, pursuant to sections 4(i) and (j), 309, and 310(d) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i) and (j), 309, and 310(d), and sections 0.331, 24.709 and 24.839 of the Commission's rules, 47 C.F.R. §§ 0.331, 24.709 and 24.839, that the grant of these applications is subject to the condition that, prior to consummating the merger transaction described in the applications, Chorus divest its F block PCS license to an unrelated third party such that the transaction(s) contemplated in the Joint Applications will not violate 47 C.F.R. §§ 24.709 or 24.839.

16. IT IS FURTHER ORDERED that the grant of these applications is subject to the condition that Applicants seek further approval before making material revisions to their Trust Agreement.

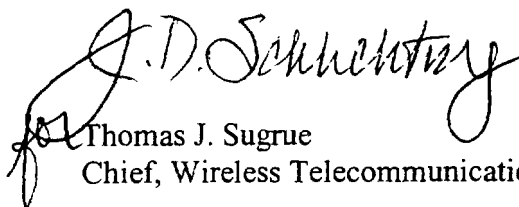
17. IT IS FURTHER ORDERED that this action is taken under delegated authority pursuant to 47 C.F.R. §§ 0.91, 0.291, 0.131, and 0.331.

18. IT IS FURTHER ORDERED that this Memorandum Opinion and Order SHALL BE EFFECTIVE upon release in accordance with 47 C.F.R. § 1.103.

FEDERAL COMMUNICATIONS COMMISSION



Dorothy T. Attwood
Chief, Common Carrier Bureau



Thomas J. Sugrue
Chief, Wireless Telecommunications Bureau

ATTACHMENT

DIVESTITURE TRUST AGREEMENT

Second Revised Form of Divestiture Trust Agreement

Divestiture Trust Agreement

This Divestiture Trust Agreement ("*Trust Agreement*") is by and between MID-PLAINS, INC., a Wisconsin corporation ("*Grantor*"), and MICHAEL DE LEÓN HAWTHORNE, a resident of the Commonwealth of Kentucky (the "*Trustee*"), as of the ____ day of _____, 2001 [the closing date of the Merger].

WHEREAS, Grantor holds an 18.132 percent limited partnership interest (the "*Subject Interest*") in Madison SMSA Limited Partnership (the "*Subject Entity*"); and

WHEREAS, the Subject Entity holds Federal Communications Commission ("*FCC*") authorizations to operate the cellular systems having call signs KNKA498, KNKA414, and KNKN325;

WHEREAS, it may be necessary for Grantor to eliminate attribution of the Subject Interest in order to comply with 47 C.F.R. § 22.942 in order to consummate the pending merger (the "*Merger*") of Singer Acquisition Corp., a wholly owned subsidiary of Telephone and Data Systems, Inc. ("*TDS*"), with and into Grantor's parent corporation, Chorus Communications Group, Ltd.;

WHEREAS, Grantor wants to create a trust for the purpose of allowing the Merger to be completed in compliance with the Communications Act of 1934, as amended, and the rules, regulations, orders, and published policies of the FCC, as they may be in effect from time to time (collectively the "*Communications Act*"); and

WHEREAS, the Trustee wants to act as trustee of such a trust in accordance with the terms and conditions of this Trust Agreement;

NOW, THEREFORE, Grantor and the Trustee hereby agree as follows:

ARTICLE I

DISPOSITION OF TRUST ASSETS

1.1 Transfer of Trust Assets. Grantor hereby transfers to the Trustee the Subject Interest which shall constitute the initial principal of the trust created hereby (the "*Trust*") to be held in trust for the exclusive benefit of Grantor as sole beneficiary of Trust income and principal. The Trustee shall administer and dispose of the Subject Interest at any time or from time to time in accordance with the provisions of this Trust Agreement.

1.2 Trustee's General Responsibilities. The Trustee will be responsible for accomplishing a divestiture through the sale, transfer, or other disposition of all or a portion of the Subject Interest until all or a portion of the Subject Interest is either divested to one or more purchasers or returned to Grantor in accordance with the provisions of Section 1.10 of this Trust Agreement. The Trustee shall not be required to obtain any bond, surety, or security in connection with his administration of this Trust.

1.3 Disposition of Trust Assets. Subject to the provisions of Section 1.9(b), the Trustee shall sell, transfer, or otherwise dispose of all or a portion of the Subject Interest pursuant to terms and conditions customary for the transfer of such interests, in accordance with the Communications Act, the other provisions of this Trust Agreement and the terms and conditions of the limited partnership agreement of the Subject Entity. In connection with any such disposition of all or a part of the Subject Interest, the Trustee may engage such investment bankers, attorneys, appraisers, accountants, and other agents and professionals as the Trustee determines are reasonably necessary, and the costs of such sale, transfer, or other disposition, including the fees of all such agents and professionals retained by the Trustee hereunder shall be borne by Grantor pursuant to customary retention agreements or arrangements. Any such agent and professional shall be accountable solely to the Trustee.

1.4 Communications Between Trustee and Grantor. Grantor shall designate a representative knowledgeable with the negotiations for the sale, transfer, or other disposition of the Subject Interest, if any, that are ongoing at the time this Trust is established. To the extent not prohibited by the Communications Act, the Trustee is authorized to initiate communications with the designated representative of Grantor with respect to negotiations for the sale, transfer, or disposition of the Subject Interest that began before the time this Trust is established. Except as otherwise specifically provided in this Trust Agreement (including but not limited to Section 1.7 hereof) or otherwise not prohibited by the Communications Act, Grantor shall not initiate communications with the Trustee regarding the Subject Entity, and the Trustee shall not provide any information to Grantor concerning the operation or management of the Subject Entity. Nothing in this agreement shall prohibit written communications between the Trustee and Grantor with respect to the fiduciary obligations owed by the Trustee to Grantor. If any dispute arises as to whether a communication is prohibited by this Trust Agreement, the matter shall be referred by either the Trustee or Grantor to the FCC or, in the event the FCC is unwilling or unable to make a determination within 15 days of submission, to an independent counsel reasonably acceptable to the Trustee and Grantor, and the determination of the FCC or the independent counsel as to whether the communication is prohibited shall govern. If the question is referred to an independent counsel, all fees and costs (including without limitation the legal fees and expenses of the Trustee and Grantor) associated with obtaining such advice from independent counsel shall be borne by Grantor.

1.5 Period for Divestiture. The Trustee shall accomplish the divestiture of the Subject Interest no later than one hundred eighty calendar days after the Subject Interest is transferred to the Trustee (the "*Transfer Date*"), or such later date that the FCC may approve. If the Trustee has not accomplished the divestiture of all of the

Subject Interest prior to the date that is thirty days before the expiration of the period described in the preceding sentence, the Trustee thereupon shall file promptly with the FCC a request to extend the trust and any statements the Trustee feels appropriate regarding the circumstances of such failure to divest and the prospect of pending sales. Compliance with the Communications Act (such as by complying with any later divestiture deadline the FCC may specify) shall constitute compliance with the provisions of this Section 1.5.

1.6 Period for Divestiture. The Trustee to Have Sole Disposition Authority. Until the completion of divestiture of the Subject Interest to a purchaser or purchasers in accordance with the Communications Act and the provisions of this Trust Agreement, the Trustee shall have sole and complete authority to transfer all or a portion of the Subject Interest and over all other matters concerning the Subject Interest and shall not be subject to any direction or control by Grantor concerning the Subject Interest.

1.7 Grantor Obligations. Subject to the provisions of Sections 1.6 and 2.4 of this Trust Agreement and to the extent not prohibited by the Communications Act, Grantor shall use its best efforts to assist the Trustee in accomplishing the divestiture of the Subject Interest as contemplated hereby, including its best efforts to provide information in its possession as required by the Trustee to obtain any necessary regulatory approvals. The Trustee and any consultants, accountants, attorneys, and other persons retained by the Trustee shall have full and complete access to books, records, and other documents and information in Grantor's or its affiliates' possession with respect to the Subject Interest customarily provided in a due diligence process as the Trustee may reasonably request, subject to customary confidentiality assurances. Grantor and its affiliates shall permit prospective purchasers of the Subject Interest to have reasonable access to any and all financial, operational, or other documents and information in Grantor's possession as may be relevant to the divestiture, subject to customary confidentiality assurances.

1.8 Trustee's Reports. Until divestiture is complete, the Trustee shall file on the 60th and 120th day after the Transfer Date reports with the FCC, setting forth the Trustee's efforts to accomplish the divestiture; provided, however, that to the extent such reports contain information that the Trustee deems confidential, such reports shall be filed in the public docket of the FCC only after such confidential information has been redacted. Such reports shall include, without limitation, the name, address, and telephone number of each person who, during the preceding month, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring the Subject Interest and shall describe in detail each contact with any such person during that period. The report submitted to the FCC shall also contain a listing of the contacts (at a minimum, date, subject matter, and parties to the communication) between the Trustee and Grantor during the preceding month.

1.9 Receipts of Proceeds upon Divestiture. Upon a divestiture of any or all of the Subject Interest (whether by sale, exchange, or otherwise), the Trustee shall collect the proceeds of such divestiture and, after the payment to the Trustee of any and all amounts due to the Trustee in accordance with this Trust Agreement, shall distribute

any remaining proceeds, including any income earned, to Grantor. Grantor shall have the right, at any time, by written notice to the Trustee, to name additional beneficiaries of the Trust to receive proceeds or other assets from the Trustee in the manner provided by Grantor upon the naming of such beneficiaries.

1.10 Termination of Trust.

(a) Upon (i) the sale, transfer, or disposition of all of the Subject Interest and the Trustee's receipt of proceeds from such divestiture and (ii) payment to the Trustee of all amounts due to the Trustee in accordance with this Trust Agreement, the Trustee shall distribute any remaining proceeds to Grantor or its designee and, to the extent not prohibited by the Communications Act, any and all other Trust Assets to Grantor or its designee, and the Trust shall terminate.

(b) If the Communications Act is amended to permit Grantor to hold all or a greater part of the Subject Interest consistent with 47 C.F.R. § 22.942 (after the consummation of the Merger), then within ten days after the Trustee receives notice from the Grantor that such amendment has taken effect, the Trustee shall inform Grantor of the status of any pending sale, and if no sale is pending, Grantor may request that the Trustee cease all activities aimed at the disposition of the Subject Interest to a third party and the Trustee may terminate the trust in accordance with this Trust Agreement and return the Subject Interest to Grantor or its designee.

ARTICLE II

NATURE OF TRUST AND TRUST AGREEMENT

2.1 Grantor Trust. The Trust is intended to be a "grantor trust," the United States federal income taxation of which is governed by Subpart E of Subchapter J of the Code. The Trustee shall be responsible for (i) timely filing all Trust tax returns and any other filings required by the Code on a basis that is consistent with the characterization of the Trust as such a grantor trust and (ii) providing such information, books, and records of the Trust as Grantor requests for the purpose of preparing tax returns or otherwise dealing with tax authorities.

2.2 Trust Agreement Irrevocable. This Trust Agreement is irrevocable and, except as otherwise specifically provided herein, may not be altered or amended.

2.3 Independence of Trustee. The Trustee represents and warrants that, during the period of service as Trustee, he is not, and shall not become, an affiliate, officer, employee, director, or shareholder of Grantor or its affiliates (including affiliates of the Grantor resulting from the consummation of the Merger). The Trustee further represents and warrants that he does not have (nor will he have during the period of service as Trustee) any direct or indirect (i) familial relationship with Grantor, (ii) any other business interest or relationship with Grantor or any of its affiliates representing

payments or receipts of \$50,000 or more, in the aggregate, annually, or (iii) interest representing 1 percent or more of the outstanding capital stock of any publicly traded affiliates of Grantor. The Trustee may serve as Trustee for other trusts created for purposes of compliance with the Communications Act on behalf of Grantor and/or TDS and their affiliates, and Grantor hereby waives any conflict of interest which may arise in connection with the Trustee serving as trustee for such other trusts.

2.4 Additional Restrictions on Grantor. Grantor and its affiliates shall not be involved (directly or otherwise) with the Subject Entity or seek to influence the sale, transfer, or other disposition of all or part of the Subject Interest, provided, however, that communications required and permitted in Section 1.4 and 1.10(b) of this Trust Agreement and the obligations of Grantor set forth in Section 1.7 of this Trust Agreement shall not be considered a violation of this Section 2.4.

2.5 Trustee as a United States Person. The Trustee represents and warrants that he is, and during the period of service as Trustee shall remain, a United States Person within the meaning of Section 7701(a)(30)(A) of the Code and that the ownership of the Trustee complies with Sections 310(a) and 310(b) of the Communications Act.

ARTICLE III

TRUSTEE POWERS

3.1 General Trustee Powers. In addition to the powers now or hereafter conferred by applicable law, and subject to the requirements of Article I of this agreement and the Communications Act, the Trustee may, in his sole discretion:

- (a) make payments or distributions of income or principal in kind or in money, or partly of each, in shares of differing composition;
- (b) hold, manage, insure, coinsure, reinsure, improve, repair, and control all trust property, real or personal;
- (c) sell for cash or credit, or on installment at public or private sales, grant options to purchase and convey or exchange any and all of the trust property for such price, including property of equivalent value, and upon such terms, as the Trustee determines;
- (d) lease or license the use of any tangible or intangible personal property at any time forming a part of the trust property upon such terms as the Trustee determines;
- (e) borrow money from any source (including from himself) or extend or renew any existing indebtedness; mortgage or pledge any trust property;

(f) release, assign, settle, compromise, contest, participate in mediation, agree to arbitrate and be bound thereby, extend the time for payment of, or abandon claims or demands in favor of or against the Trust or any part thereof;

(g) determine whether and to what extent receipts and expenditures should be allocated to or charged against income or principal and establish out of income and credit to principal reasonable reserves for the depreciation or depletion of tangible personal properties;

(h) employ and pay reasonable compensation to such employees, agents, brokers, advisors, trustees, custodians, depositories, title holders, escrowees, accountants, attorneys, investment counsel, appraisers, insurers, and others (who may be the Trustee himself in such other capacity or any firm or corporation with which the Trustee is associated), and execute any general or limited direction or power of attorney for any such employment or agency relationship; and such expenses shall not be charged against the compensation of the Trustee;

(i) vote, or refrain from voting, any corporate stock, equity, or any other ownership interest in any corporation or other entity, including the Subject Interest, either in person or by general or limited proxy, for any purpose, including (without limitation) the election of any trustee or beneficiary as a director of any such entity; exercise or sell any conversion privilege, warrant, option, or subscription right with respect to any security; consent to take any action in connection with, and receive and retain any securities resulting from, any reorganization, consolidation, merger, readjustment of the financial structure, sale, lease, or other disposition of the assets of any corporation or other entity, the securities of which may at any time form a part of the trust property; deposit any securities with or under the direction of a committee formed to protect such securities and consent to or participate in any action taken or recommended by such committee; pay all assessments, subscriptions, and other sums of money that may seem expedient for the protection of the interest of the Trust as the holder of such stocks, bonds, or other securities; enter into an agreement making the Trust liable for a pro rata share of the liabilities of any corporation that is being dissolved and in which stock is held when, in the opinion of the Trustee, such action is necessary or otherwise advisable to the plan of liquidation and dissolution of any such corporation; join in and vote for participation in or modification or cancellation of any restrictive purchase or retirement agreement relating to any partnership interest, corporate stock, or any other interest in any type of entity held as a part of the trust property; join in the formation, amendment, extension, or cancellation of any voting trust, voting agreement, or any type of shareholder agreement;

(j) cause any securities or other trust property to be issued, held, or registered in any Trustee's individual name or in the name of a nominee, with or without disclosure of any fiduciary capacity, or in a form such that title will pass by delivery;

(k) transfer the situs of the administration of any trust hereunder and/or the location of any trust property to another jurisdiction within the United States as

often as the Trustee deems it advantageous; and the Trustee may take whatever actions necessary or desirable (including, without limitation, the commencement of an appropriate judicial proceeding) in order to effectuate such a transfer of Trust situs administration or of the location of trust property; and if necessary for the transfer of the situs of the administration of the Trust, the Trustee may designate a natural person or a bank or Trust company to assume office as a co-Trustee of the Trust, and thereafter may act as an advisor to such substitute Trustee and may receive reasonable compensation for so acting;

(l) open and maintain one or more savings accounts or checking accounts and rent safety deposit boxes or vaults, wherever located, within or without the United States, even if the bank or trust company at which the safety deposit box or vault is located is acting as Trustee of such Trust; deposit to the credit of such account or accounts all or any part of the trust property, irrespective of whether such property may earn interest; add to or remove some or all of the items placed in any safety deposit box or vault; withdraw a portion or all of such funds so deposited by check or other instrument signed by the Trustee, or by such other person or persons as the Trustee may authorize, and any such bank, company, or association may allow such person or persons access to such safety deposit box or vault and to pay such check or other instrument and also to receive the same for deposit to the credit of any holder thereof when so signed and properly endorsed, without inquiry of any kind; and access when so allowed and payments when so made by such bank, company, or association shall not be subject to objection by any person concerned or interested in any way in the Trust;

(m) divide the trust property equally or unequally into two or more separate shares or Trusts for any purpose, each of which shall be administered and disposed of as a separate Trust having terms identical to those of the Trust from which it is created;

(n) make or refrain from making any tax election; provided, however, that no election may be made that would change the status of the Trust from a grantor trust for income tax purposes; and

(o) make any payment, receive any money, take any action, and make, execute, deliver, and receive any contract, deed, instrument, or document that the Trustee may deem necessary or advisable to exercise any of the Trustee's powers or to carry out any provisions contained herein; and, in addition to the powers enumerated hereinabove, do all other acts that in the judgment of the Trustee are necessary or desirable for the proper administration of the Trust.

3.2 Third Parties. No person dealing with the Trustee shall be obliged to inquire as to the powers of the Trustee, or to see to the application of money or property delivered to the Trustee, and the certificate of the Trustee that the Trustee is acting in compliance with this Trust Agreement shall fully protect all persons dealing with the Trustee.

3.3 Powers, Duties, Limitations, Immunities, and Liabilities of Successor Trustees. Wherever reference is made herein to the Trustee, such reference shall include any and all successor Trustees acting as the Trustee over the Trust Assets at any time before divestiture of the Trust Assets is completed. Each successor Trustee shall be vested with all powers, duties, limitations, and immunities as if originally named as Trustee. Successor Trustees shall not be liable or responsible in any way for the acts or defaults of any predecessor Trustee, nor for any loss or expense occasioned by any act by or omission of a predecessor Trustee, and shall be liable only for his or her own acts and omissions with respect to trust property, and a successor Trustee may accept the account rendered and the assets and property delivered to such successor Trustee by the predecessor Trustee and shall incur no liability by reason of so doing.

3.4 Merger of Corporate Fiduciary. If any corporate fiduciary is merged into or consolidated with or sells or transfers all or substantially all of its assets and business to another corporate fiduciary, or is in any manner reorganized or reincorporated, the surviving corporate fiduciary shall thereupon become the corporate fiduciary without any further act on the part of such corporate fiduciary.

ARTICLE IV

TRUSTEE COMPENSATION AND EXPENSES

Grantor agrees to pay the Trustee compensation for his services in accordance with Schedule A. Grantor further agrees to pay for all expenses customarily incurred by the Trustee, including, without limitation, the fees and expenses customarily charged for such matters by the legal, accounting, and other professional advisors and agents retained by the Trustee to advise the Trustee in connection with his duties, obligations, and other matters in connection with or arising out of this Trust Agreement or the Communications Act. In addition, Grantor shall pay for all expenses incurred by the Trust in connection with the divestiture, through sale, transfer, or other disposition, of all or a portion of the Subject Interest, including, without limitation, the fees and expenses customarily charged for such matters by the investment bankers, attorneys, appraisers, accountants, and other agents and professionals engaged by the Trustee in connection with such divestitures, including expenses relating to unconsummated efforts to divest as contemplated herein. Grantor hereby agrees to pay for all of the above expenses, including attorneys' and other advisers' fees, on a monthly basis upon presentation to Grantor of appropriate invoices, or to reimburse the Trustee for such expenses, to the extent any of the expenses were borne directly by the Trustee.

ARTICLE V

TRUSTEE LIABILITY AND INDEMNIFICATION

5.1 Liability of the Trustee. Notwithstanding any provision of law to the contrary:

(a) the Trustee and affiliates of the Trustee shall not be liable for any depreciation in value or other loss, by reason of not diversifying the Subject Interest or occasioned by any divestiture made in accordance with the terms of this Trust Agreement, provided the Trustee and affiliates of the Trustee act in good faith in making such divestiture; and

(b) the Trustee and affiliates of the Trustee shall not be liable for any loss or damage occurring to the Subject Interest as a result of the exercise of any discretion herein vested in the Trustee, except for such loss or damage as may result from the willful misconduct or gross negligence of the Trustee in connection with this Trust Agreement.

5.2 Indemnification. Grantor agrees to indemnify and hold harmless the Trustee (including within such term for purposes of this provision only any officers, directors, members, employees, advisers, and agents of the Trustee and, in the case of an individual trustee, his or her personal representatives) against any and all loss, claim, damage, or liability (or actions in respect thereof) incurred by the Trustee in connection with or arising out of the administration of this Trust and the performance of his duties hereunder, and will promptly reimburse the Trustee (or at Trustee's written request directly and promptly pay) for any reasonable legal or other expenses incurred by the Trustee in connection with investigating or defending any such loss, claim, damage, liability, or action as such expenses are incurred, including reasonable legal or other expenses incurred by the Trustee in asserting his right to indemnification hereunder. The Trustee shall notify Grantor promptly in writing of any claim for which it may seek indemnity. Failure by the Trustee to so notify Grantor within a reasonable time shall not relieve Grantor of its obligations hereunder. Neither the Trustee nor any officers, directors, members, employees, advisors, or agents of the Trustee shall be indemnified against any loss, claim, damage, liability, or action resulting from such person's willful misconduct or gross negligence; provided, however, that such determination of willful misconduct or gross negligence has been made by a final non-appealable judgment. Grantor's payment obligations pursuant to this provision are not limited to the assets in the Trust and shall survive the termination of the Trust. The obligations of Grantor under this provision shall be in addition to any liability which Grantor may otherwise have. The Trustee's rights to indemnification hereunder shall be in addition to any other legal or equitable remedies available to the Trustee.

ARTICLE VI

TRUSTEE RESIGNATION AND SUCCESSION

6.1 Resignation. The Trustee may resign at any time and for any reason by delivering a duly acknowledged notice to Grantor. Such resignation shall become effective upon the acceptance of the trusteeship by a successor Trustee selected by Grantor and approved by the FCC (if such approval is required under the Communications Act).

6.2 Trustee Succession. If the Trustee resigns or ceases to serve for any other reason, the successor Trustee shall be such natural person, bank, or trust company selected by Grantor and approved by the FCC (if such approval is required under the Communications Act). Such natural person, bank, or trust company shall accept the trusteeship by executing a counterpart of this Trust Agreement.

ARTICLE VII

MISCELLANEOUS

7.1 Governing Law. This Trust Agreement shall be construed and administered, and the validity of the Trust hereunder shall be determined, in accordance with the laws of the State of Illinois without giving effect to its conflicts-of-law principles that would require the application of the law of another jurisdiction. With the advance written consent of Grantor, the Trustee may amend this paragraph and take any other action in order to change the jurisdiction whose law shall govern the construction, administration, and validity of any Trust hereunder, and to amend any other provision of this Trust Agreement solely for such purposes. The jurisdiction whose law governs the construction, administration, and validity of the Trust may, but need not be, the same as the situs of the administration of the Trust.

7.2 Situs of Administration. The situs of the administration of the Trust shall be the State of Illinois, and the jurisdiction governing all disputes and/or litigation shall be the state and federal courts of the State of Illinois.

7.3 Severability. If any provision of this Trust Agreement or the application of any such provision to any person or circumstance is determined to be invalid, illegal, or unenforceable to any extent, the remainder of this Trust Agreement or the application of such provision to persons or circumstances other than those for which it is determined to be invalid, illegal, or unenforceable shall not be affected thereby and each other provision of this Trust Agreement shall be valid and shall be enforced to the fullest extent permitted by law. To the extent permitted by applicable law, the Trustee and Grantor waive all provisions of law that render any provision hereof invalid, illegal, or unenforceable in any respect.

7.4 Amendments. Excepted as expressly provided in Section 7.1 of this Trust Agreement, this Trust Agreement shall not be amended, altered, or modified except by an instrument in writing duly executed by each of the parties hereto. No amendment, alteration, or modification that affects the Trust's compliance with the Communications Act will be made without obtaining the prior approval of the FCC. In the event that the Communications Act is amended, supplemented, or modified, the corresponding terms and conditions of this Trust Agreement, if applicable, shall likewise be deemed amended so as to cause any such terms and conditions to be consistent with such amendment, supplement, or modification.

7.5 Singular and Plural: Masculine and Feminine. As used herein, wherever the context and facts require such construction, (i) the singular shall include the plural, and the plural shall include the singular, and (ii) the masculine shall include the feminine, and the feminine shall include the masculine.

7.6 Headings. The headings, titles, and subtitles herein are for convenience of reference only and are to be ignored in any construction of the provisions hereof.

7.7 Counterparts. This Trust Agreement may be executed in two or more counterparts, each to be deemed an original for all purposes and all together to constitute one and the same Trust Agreement.

7.8 Inconsistency. In the event of any inconsistency between the terms of this Trust Agreement and the Communications Act, the Communications Act shall control.

ARTICLE VIII

DEFINITIONS

8.1 Business Entity. As used herein, the term "*Business Entity*" shall include a corporation, partnership (general or limited), limited liability company, joint venture, sole proprietorship, or other entity under the laws of any state or other jurisdiction.

8.2 Code. As used herein, the term "*Code*" shall mean the United States Internal Revenue Code of 1986, as amended, the regulations thereunder, or the corresponding provision of any subsequent federal tax law.

8.3 Person. As used herein, the term "*person*" shall mean and include a natural person, a trust, partnership, association, limited liability company, company, federal or regulatory agency, or corporation.

8.4 Trust Property. All references herein to "*trust property*" and "*Trust Assets*" shall include the net income and principal of the Trust, real and personal,

which includes all the property received initially by the Trustee with respect to the Trust, all additions thereto received by the Trustee from any other source, all investments and reinvestments of such property or such additions thereto, and all accrued or unpaid income of the Trust.

IN WITNESS WHEREOF, the parties hereto have executed this Trust Agreement
as of the date first written above.

MID-PLAINS, INC.

By: _____
Name: _____
Title: _____

MICHAEL DE LEÓN HAWTHORNE
